REMARKS

This Amendment is filed in response to the Office Action mailed on March 21, 2008. All objections and rejections are respectfully traversed.

Claims 1-6, 12-14, and 26-30 are in the case.

Claim 30 is added.

Claim Rejections – 35 USC § 112

At paragraph 3 of the Office Action, claims 1-6, 12-14, and 26-29 were rejected under 35 U.S.C. §112, first paragraph. Specifically, the Examiner states that conformable to "any desired shape" is not enabled by the specification.

Applicant has amended claim 1 to state "a plurality of desired shapes". Support for the amendment can be found at page 5, lines 22-25. Applicant believes the claims are allowable over the §112, first paragraph rejection.

At paragraph 4 of the Office Action, claims 1-6, 12-14, and 26-29 were rejected under 35 U.S.C. §112, second paragraph. Specifically, the Examiner states it is unclear how the fuel delivery means is conformable.

Applicant has amended claim 1 to state a conformable fuel cell housing. Additionally, Applicant has added new claim 30, to show that the fuel delivery means can be conformable to the fuel cell housing. Applicant believes the claims are allowable over the §112, second paragraph rejection.

Claim Rejections – 35 USC § 103

At paragraph 6 of the Office Action, claims 1, 2, 4, 5, and 12 were rejected under 35 U.S.C. §103 as being unpatentable over Pratt, U.S. Patent No. 6,127,058, hereinafter

Pratt, in view of Fannon et al., US Patent Application Publication No. 2005/0048349, hereinafter Fannon.

Applicant respectfully urges that Fannon is precluded under 35 U.S.C. 103(c) as a reference under 35 U.S.C. 103(a) against the present Application because Fannon and the present invention were both owned by MTI Microfuel Cells Inc. at the time that the invention was made.

The statute 35 U.S.C. 103(c) states as follows:

> "Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

The present application was assigned to MTI Microfuel Cells Inc by Assignment recorded at Reel/Frame 015593/0508 on July 22, 2004. Fannon was assigned to MTI Microfuel Cells Inc. by Assignment recorded at Reel/Frame 014445/0627 on August 28, 2003. The respective filing dates and other relevant dates regarding the present Application and the Fannon reference are summarized as follows:

Filing date of the present Application: March 2, 2004.

Filing date of cited art, Fannon: August 28, 2003.

Publication date of cited art, Fannon: March 3, 2005.

Issue date of cited art, Fannon: None.

Pursuant to 35 U.S.C. § 102:

A person shall be entitled to a patent unless--

Section 102(a) states: "the invention . . . was patented or described in a printed publication . . . in this ... country . . . before the invention thereof by the applicant"

Fannon does not qualify as prior art under 102(a) because the invention was invented by Applicant before patenting or publication by Fannon, as Applicant's filing date (March 2, 2004) precedes patenting and publication of Fannon, which was published as a printed publication on March 3, 2005.

Section 102(b) states: "the invention was patented or described in a printed publication in this or a foreign country or in public use … more than one year prior to the date of the application for patent in the United States"

Fannon does not qualify as prior art under 102(b) because the application was filed (March 2, 2004) before the publication date (March 3, 2005) of Fannon.

Section 102(c) states: "he has abandoned the invention"

Fannon does not qualify as prior art under 102(c) because Applicant has not abandoned Fannon or the present invention.

Section 102(d) states: "the invention was first patented or caused to be patented . . . in a foreign country prior to the date of the application for patent in this country on an application for patent . . . filed more than twelve months before the filing of the application in the United States"

Fannon does not qualify as prior art under 102(d) because the present invention was not filed in a foreign country before filing in the United States.

Accordingly, Applicant respectfully urges that Fannon qualifies as prior art only under 35 U.S.C. 102(e), 102(f), or 102(g), and therefore is legally precluded from serving as a reference under 35 U.S.C. 103(a) by operation of 35 U.S.C. 103(c).

Therefore, as the rejection to claims 1, 2, 4, 5, and 12 hinges on Fannon, the claims should be now be allowable.

At paragraph 7 of the Office Action, claim 13 was rejected under 35 U.S.C. §103(a) as being unpatentable over Pratt and Fannon, and in view of Rosen, U.S. Patent No. 6,045,575, hereinafter Rosen.

At paragraph 8 of the Office Action, claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over Pratt and Fannon, and in view of Kelley, U.S. Patent No. 6,268,077 or JP 02-234358, hereinafter JP '358.

At paragraph 9 of the Office Action, claim 3 was rejected under 35 U.S.C. §103(a) as being unpatentable over Pratt and Fannon, and in view of Wilkinson, U.S. Patent Application No. 2001/0041281.

At paragraph 10 of the Office Action, claim 27 was rejected under 35 U.S.C. §103(a) as being unpatentable over Pratt and Fannon, and in view of Zaima, U.S. Patent No. 4,973,531.

At paragraph 11 of the Office Action, claims 3 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pratt and Fannon, and in view of Dristy, U.S. Patent Application No. 2002/0071984.

At paragraph 12 of the Office Action, claims 28 and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pratt and Fannon, and in view of Beceerra, US Patent No. 7,255,947, hereinafter Becerra.

Applicant respectfully notes that claims 3, 13, 14, and 27-29 are dependent claims that depend from independent claims believed to be in condition for allowance. Accordingly, claims 3, 13, 14, and 27-29 are believed to be in condition for allowance.

Furthermore, as stated previously, Fannon qualifies as prior art only under 35 U.S.C. 102(e), 102(f), or 102(g), and therefore is legally precluded from serving as a reference under 35 U.S.C. 103(a) by operation of 35 U.S.C. 103(c).

Therefore, as the rejections to claims 3, 13, 14, and 27-29, hinge on Fannon, the claims should be now be allowable.

All independent claims are believed to be in condition for allowance.

All dependent claims are believed to be dependent from allowable independent claims, and therefore in condition for allowance.

Favorable action is respectfully solicited.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,

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